

REMARKS

This response is believed to be fully responsive to the Official Action and reconsideration of the rejection is respectfully requested.

**Status of the Claims**

Claims 73-76, 79 and 80 remain pending in the application.

**Claim Rejections under 35 USC §103(a)**

Claims 73-76, 79 and 80 were rejected under 35 USC §103(a) as being unpatentable over LANGFORD US 5,906,802 (LANGFORD) in view of BEILFUSS et al. US 2004/0059006 (BEILFUSS). This rejection is respectfully traversed.

The Official Action acknowledged that LANGFORD fails to disclose or suggest using a sterilant composition including an alkyl glycerol ether and an aromatic alcohol. For this composition, the Official Action cited BEILFUSS.

However, it is not clear under which section of 102 the Official Action considered BEILFUSS as prior art, i.e., sections 102(a), (b) and (e). Accordingly, for the sake of completeness, these sections are discussed in detail below.

The present application has a filing date of April 14, 2004, along with a claim to foreign priority which provides an effective filing date of April 17, 2003. BEILFUSS has a publication date of March 24, 2004 and filing date of May 27, 2003.

Under 102(a), the publication date of BEILFUSS (March 24, 2004) is considered. However, the present application includes a claim to foreign priority which provides an effective filing date of April 17, 2003, and, thus, BEILFUSS was not published before the present invention. Moreover, BEILFUSS does not describe an invention known or used by "others". That is, BEILFUSS and the present invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person, as evidence by the assignment data provided in the Appendix of this reply. Thus, BEILFUSS is not qualified as prior art under 102 (a).

Under 102(b), the publication date of BEILFUSS (March 24, 2004) is considered. However, the publication date is less than 1 year prior to the filing date of the application, with or without consideration of the claim to priority. Thus, BEILFUSS is not qualified as prior art under 102 (b).

Under 102(e), the filing date of BEILFUSS (May 27, 2003) is considered. As discussed above, the claim to foreign priority in the present application provides an effective filing date of April 17, 2003, which antedates the filing date of BEILFUSS. Moreover, even without consideration of the priority date, BEILFUSS is disqualified as a prior art under 103(c). That is, the present invention and BEILFUSS were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. The Appendix of the

present response includes the assignment data from the USPTO to illustrate this fact.

As BEILFUSS is not available as a prior art reference under 102(a), (b) or (e), BEILFUSS cannot be used to remedy the shortcomings of LANGFORD for reference purposes.

Therefore, withdrawal of the rejection is respectfully requested.

**Conclusion**

In view of the foregoing remarks, the present application is in condition for allowance at the time of the next Official Action. Allowance and passage to issue on that basis is respectfully requested.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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**APPENDIX:**

The Appendix includes the following item(s):

- USPTO Assignment Data for US 20040059006.
- USPTO Assignment Data for the present application.